was sufficient ground for an injunction. But the Court of Appeals held that there must also be a right violated, either legal or equitable, and that with the exception of trade marks and trade names there was no exclusive property in names. The court further expressly disclaimed the power of widening the application of this exception. The case of trade marks and trade names rests on a peculiar principle. The prior user has acquired a reputation for these names by their use in his business, and to permit another to employ them in a similar way would be to permit a fraud both on him and the public by which he would sustain pecuniary damage. 12 HARVARD LAW REVIEW, 349. A business conducted with the object of gain is necessarily presupposed, and in no proper sense could these membership corporations be brought within that class. They were in no way engaged in trade, but were in reality more in the nature of charitable organizations, and their members, so far from looking for profit from their operations, could only be subject to burdens. Unless the case could be considered one for the application of the rule governing trade names, which it is evident it cannot, there would seem to be no possible support for the second decision either in principle or authority. Apart from statutory provisions, there can be no sound distinction between a corporation and a personal name, and in the latter case there has never been any doubt but that by the common law, with the exception of trade names, no exclusive right to a name can be acquired. *Du Boulay* v. *Du Boulay*, L. R. 2 P. C. 430.

SIGNATURES OF WILLS. — The Court of Appeals of New York has again affirmed the rule that the signature of a will must be at the physical end of the document. *In re Andrews*, New York Law Journal, March 7, 1900. But the vigorous protest in the Appellate Division shows that, even under a statute which requires the signature at the end of a will, there may well be a difference of opinion as to the real meaning of the true "end." In the principal case the testatrix wrote a will on three sides of a folded paper, commencing on the first page and continuing on the third page, at the top of which was written "second page." She at length completed and signed the instrument on a page marked "third page," which in fact was the second page of the sheet. It was held that the will was not signed at the end within the meaning of the statute, and it was accordingly not probated.

Statutes requiring such formalities have been passed usually with a view to preventing frauds upon the testator by additions or interlineations. But the development of the English cases seems to show that the requirements need not be carried to the extent of admitting only those wills which are signed at the physical end. By 1 Vict. c. 26, the position of the signature was required at the end or the foot of the will. It became common to construe this requirement strictly, and thus in many cases the results were extremely harsh. Sugden, Real Property Statutes, p. 311. But no case appears to be reported presenting the exact point of the principal case. The discussion in nearly every instance turned on the amount of space between the last line of the instrument and the signature. For the express purpose, then, of preventing such decisions the 15 & 16 Vict. c. 24, was passed. And this by its reference to the previous enactment and by its enumeration of specific cases arising under it is shown to be merely an explanatory statute. Accordingly, it has been held

repeatedly, that when a will was written on the first and third pages of a sheet and signed on the second it was good. *In re Coombs*, L. R. 1 P. & D. 302; *In re Stoaks*, 23 W. R. 62. The result of the English cases seems eminently satisfactory, but it is conceived that it is not necessary to adopt their expedient of extra legislation in order to reach it. For why is it not a fair and sensible construction of such statutes as those in question to hold that "end" means what in fact the testator made the end? It certainly is in point of time the end, even though it be on the second page. Further, since it clearly expresses his completion of the instrument as well as though placed at the physical end, the evils which the statutes aimed to prevent are avoided. *Tonnele* v. *Hall*, 4 N. Y. 140. A more serious effect of the strict view has been said to be the failure of incorporation by reference of those clauses which might come after the signature or of documents attached to the will. That certainly is an objection, as there is enough value in the doctrine of incorporation to retain it. On the whole, therefore, it seems that one might well regard a statute requiring a testator's signature at the end of a will to mean that it shall be the end in point of time.

TESTIMONY ON A FORMER TRIAL BY A WITNESS SINCE DECEASED. — The law as to the admissibility on a subsequent trial of the testimony of witnesses deceased since the former trial, like many other topics of the law of evidence, is in a far from satisfactory condition. The rule is generally stated that for the testimony to be admissible the cause of action must be the same, and, if not between the same parties, they must at least be privy in law, in blood, or in estate to those of the former trial. Professor Wigmore, possibly with the intention of placing the rule on some rational basis, in his edition of Greenleaf on Evidence, § 163 a, states that, as regards the parties to the suit, "all that is essential is that the present opponent should have had a fair opportunity for cross-examination." On this passage the plaintiff in a recent case largely relied. *Metropolitan Railway Co.* v. *Gumby*, New York Law Journal, Feb. 6, 1900. In an action by a parent for the loss of a child's services through an injury to the child by the defendant's alleged negligence, the court permitted to be read the testimony of a deceased witness of the accident in a previous action brought by the infant's guardian *ad litem* against the defendant for the same injury. On a writ of error, the court held that, there being no privity between the plaintiffs in the two actions, the evidence was wrongly admitted.

While it is evident there is no underlying principle on which this limitation requiring privity between the parties offering the evidence in the two cases may be supported, no fault can be found with the decision, as it is probably as well for the courts to adhere closely to precedent in decisions on the law of evidence. The established rule requiring privity between the parties, for this evidence to be admissible, is apparently based on the same misconception as the doctrine that the admissions of a grantor are evidence against his grantee; namely, that the rule that the grantee's substantial rights may be cut down by the acts of the grantor before conveyance has some application to the evidence admissible in a suit to which the grantee is a party. Undoubtedly one should only get the interest his grantor had to give, but it is an altogether different matter to allow the acts of the grantor to affect in this way the evidence admis-